

ARTICLE XII

TERM OF AGREEMENT

If not terminated in accordance with its terms, this Agreement shall continue in effect for a term of one (1) year from the date hereof and thereafter until three (3) months after written notice of termination is given by either party. Such notice of termination may be given to take effect at the end of the original one (1) year period or at any time thereafter.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the date and year first above written.

WITNESS (ATTEST) New York Telephone Company

Assistant Secretary

By _____

WITNESS (ATTEST)

Assistant Secretary

By _____

APPLICATION AND LICENSE FOR CONDUIT SYSTEM¹

_____, N.Y., _____ 19____

New York Telephone Company
_____, New York

In accordance with the terms and conditions of the Conduit Occupancy Agreement between us, dated as of _____, 19____, application is hereby made for a license to occupy your conduit system as follows:

Municipality

Licensee to Furnish			Licensor to Furnish	
Location		Cable & Equipment	Duct	Rental
From	To	To Be Placed in ²	No. ³	Length
<u>Manhole at</u>	<u>Manhole at</u>	<u>System</u>		

All work will be performed by _____ We will
advise you at least fifteen (15) days in advance of commencing work.

(Name of Licensee)

By _____
Title _____

License Number _____ is hereby granted to occupy our conduit system to the extent that items have not been stricken from the above list _____, 19____.

New York Telephone Company

By _____
Title _____

1. Applications shall be submitted in duplicate.
2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.
3. Sketch to be furnished showing duct assigned to Licensee by Licensor.

PULLING IN REPORT¹

_____ N.Y., _____ 19 ____

New York Telephone Company
 _____, New York

This is to advise you that pursuant to License No. _____ granted to us under the terms of the Conduit Occupancy Agreement, dated _____ 19 ____, we have completed installation of the following cable into the following ducts.

Municipality

<u>Location</u>		<u>Cable and Equipment Installed²</u>	<u>Date</u>
<u>From Manhole at</u>	<u>To Manhole at</u>		

 (Name of Licensee)

By _____
 Title _____

Receipt of the above report is hereby acknowledged _____, 19 ____

New York Telephone Company

By _____
 Title _____

1. Reports shall be submitted in duplicate.
2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.
3. Sketch to be furnished showing duct used. Must be same duct assigned to Licensee by Licensor as shown on Exhibit A, unless a change has been previously authorized in writing by Licensor.

NOTIFICATION OF REMOVAL FROM
CONDUIT SYSTEM BY LICENSEE¹

_____ N.Y., _____ 19__

New York Telephone Company
_____, New York

In accordance with the terms and conditions of the Conduit Occupancy Agreement between us, dated as of _____, 19__, kindly cancel from your records the following occupancies covered by the licenses indicated. Our facilities were removed on _____, 19__.

License No. _____

Dated _____, 19__.

Location		Municipality	Rental
From <u>Manhole at</u>	To <u>Manhole at</u>		<u>Length</u>

(Name of Licensee)

By _____
Title _____

Receipt of the above report is hereby acknowledged _____, 19__

New York Telephone Company

By _____
Title _____

1. Notification shall be submitted in duplicate.

SCHEDULE OF FEES AND CHARGES

This Exhibit D is, from the effective date hereof, an integral part of this Underground Agreement between NEW YORK TELEPHONE COMPANY, therein called Licensor, and _____ therein called Licensee, dated as of _____ (hereinafter called the Agreement) and contains the fees and charges governing the use of Licensor's conduit system to accommodate Licensee's cable, equipment and facilities in the State of New York. The effective date of this Exhibit D is February 6, 1991.

1. OCCUPANCY FEE:

\$.75 per duct foot of main conduit per year and \$1.40 per duct foot of subsidiary conduit per year where the licensee's cable exceeds 1.1" in outside diameter or where the Licensee has placed two or more cables within a single duct regardless of their size.

\$.45 per duct foot of main conduit per year and \$.85 per duct foot of subsidiary conduit per year where the Licensee has only one cable in a duct and that cable is equal to or less than 1.1" outside diameter. In that event, Licensor reserves the right to use or to license others to use the remainder of the usable space within that duct.

a. Computation

Fee shall be computed from the date of the license to the date of termination thereof. For the purpose of computing the total conduit occupancy fee due hereunder, the length of the conduit shall be measured from the center to the center of manholes, or from the center of a manhole to the end of Licensor's conduit system occupied by Licensee's cable.

b. Payment Date

Conduit occupancy fees shall be due and payable monthly, in advance, on the first of each month. Failure to pay such fees within thirty days after presentment of the bill therefor or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

c. Termination of License

Upon termination of a license granted hereunder, the applicable occupancy fee shall be prorated for the period during which the conduit space was occupied during the final month and shall be credited to the Licensee.

2. OTHER CHARGES:a. Manhole Entrance Fee

A one-time fee of \$1000 per duct shall be charged for a Licensee to connect its conduit to Licensor's manhole. This fee is in addition to other fees and charges specified elsewhere in this agreement.

b. Computation

All charges for surveys, inspections, engineering, rodding, swabbing placement and removal of cable, and any other charges for work performed for Licensee or fees paid by Licensor on account of Licensee's presence in the conduit system shall be based upon the full cost to Licensor for performing such work plus a premium of thirty-five percent (35%) will be added to Licensor's full costs incurred in performing such work for Licensee. The cost to Licensor shall

include the costs of all materials, supplies, engineering, labor (including overtime and board and lodging, where necessary to meet the Licensee's requirements), supervision, transportation, taxes, general overhead, including appropriate loadings for such things as relief and pension accruals, social security taxes, vacations, holidays, sickness, workmen's compensation, and any other items associated with the work that are chargeable to the Licensor's accounts under the Uniform System of Accounts applicable to the Licensor as prescribed by the Federal Communications Commission.

c. Payment Date

All bills for such other charges shall be payable upon presentment to Licensee, and shall be deemed delinquent if not paid within (30) days after presentment to Licensee.

FRANCHISED MUNICIPALITIES

Date of Revision _____

Name of Licensee _____ Agreement Dated _____

Municipality

Date of Franchise

()

(C) City
(T) Town
(V) Village

**PROCEDURE FOR DETERMINING WHEN EXISTING NEW YORK TELEPHONE CONDUIT
SYSTEMS HAVE AVAILABLE CAPACITY TO ACCOMMODATE AUTHORIZED LICENSEE
OCCUPANCIES**

When an application is submitted by Licensee for a license to place its cable, facilities and/or equipment in the conduit system of Licensor, Licensor will advise Licensee of the availability of conduit space. In determining the availability of space in Licensor's conduit system, Licensor will consider its present and future communications and maintenance needs for conduit and equipment space. If it is determined that conduit space is available, a license to occupy the conduit system will be granted to Licensee; provided, however, that Licensor will not warrant the condition of such conduit.

RECORDS

The Licensor's conduit records will be checked to determine the number of spare conduits in the run. The Licensee is required to pay for this activity, in advance. The cost will be based on an estimate of the engineering hours to complete the record analysis.

LONG RANGE PLANS

Long range plans will be reviewed to determine growth requirements and any plans existing for reinforcing the route.

With this information, the number of spare conduits available for license shall be determined on the following basis:

- a) When future conduit requirements indicate that New York Telephone will have sufficient spare conduits available to meet its service needs for the next five years, and any municipal obligations, and
- b) When more than three spare conduits remain, the number of additional spare conduits will be available for licensing.

The three spare conduits reserved are for (1) contingency growth, (2) fiber optic cable placement (if Licensor's fiber cable exists in the conduit system, this reserve conduit is not required) and (3) emergency maintenance.

MAKE-READY ALTERNATIVES

When no conduits are available for licensing, per the above, it may be possible to provide spare facilities, at the Licensor's option, and at the Licensee's expense. Possible alternative Make-Ready work may involve a section throw of a small cable into a larger cable, (b) replacement of small cables with a larger cable, or (c) grant manhole entrance license for Licensee owned conduit.

MANHOLE CONDITION

Condition of manhole. There may be conduit but no splicing room in manhole. The Licensor may deny conduit occupancy if there is not sufficient room in the manholes for its own service requirements.

ENTRANCE CONDUITS TO BUILDINGS

Availability of Building entrances will be based upon ultimate service needs of the Licensor, to be determined locally. Conduit entrances to Central Office vaults will not be licensed.

PLUGGED CONDUIT

An unusable spare conduit, one that is plugged with dirt or a dropped conduit situation making rodding impossible. Such conduits may be repaired at Licensor's option, at the Licensee's expense in situations where no other spare is available.

ADVANCEMENT OF WORK

It is anticipated that new conduit systems will not be constructed nor existing conduit routes reinforced solely for the benefit of the Licensee. In the event such a situation does occur, the Licensee will be required to assume the burden of any added cost to New York Telephone. These costs will include the advancement penalty of conduit construction expenditures from the time, when new conduit construction or reinforcement was scheduled to meet New York Telephone normal requirements.

STUDIES

In fulfilling its responsibility, of providing basic conduit information, it will be necessary for New York Telephone to devote engineering manpower to work closely with the prospective applicant. Prior to embarking on any study, the prospective applicant shall be advised, in writing, that charges for New York Telephone involvement will be estimated and billed in advance on the basis of full costs plus 35% administrative compensation.

E.E.O. COMPLIANCE UNDERTAKING

I EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

In accordance with Executive Order No. 11246, dated September 24, 1965, as amended by Executive Order No. 11375, dated October 13, 1967, and U.S. Code of Federal Regulations, Title 41- Public Contracts and Property Management, Chapter 60-Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, Part 60-1-Obligations of Contractors and Subcontractors, the parties include in this contract the following understanding and agreement:

A. FOR CONTRACTS EXCEEDING \$10,000
EQUAL EMPLOYMENT OPPORTUNITY CLAUSE (41 CFR 60-1.4)

During the performance of this contract _____ (hereafter referred to as Contractor) agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or natural origin. such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the present rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of the paragraphs (1) through (7) in every subcontract or purchase order unless exempted by such rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204, of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as the result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. CERTIFICATION OF NONSEGREGATED FACILITIES (41 CFR 60-1.8)

The contractor certifies to New York Telephone Company that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It understands and agrees that a breach of this certification may be violation of Equal Opportunity clause required by Executive Order 11246 of September 24, 1965.

As used in this certification, the term "segregated facilities means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin, because of habit, local custom or otherwise.

It further agrees that (except where it has obtained similar certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certification in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted similar certification for specific time periods):

"NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A certification of nonsegregated Facilities, as required by the May 9, 1967, order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually)."

NOTE: "Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001."

C. FOR CONTRACTS EXCEEDING \$50,000 WITH CONTRACTOR WITH 50 OR MORE EMPLOYEES (41 CFR 60-1.40) AFFIRMATIVE ACTION PROGRAM CERTIFICATION

The contractor, (or subcontractor) certifies to the New York Telephone Company that it has developed or will develop a written affirmative action compliance program in accordance with the requirements set forth in Title 41-Public Contracts and Property Management, Chapter 60-Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, Part 60-1-Obligations of Contractors and Subcontractors, Section 60-1.40, Code of Federal Regulations, effective July 1, 1968, amended.

D. CONTRACTOR'S INFORMATION REPORT CERTIFICATION (41 CFR 60-1.7)

The contractor, (or subcontractor) certifies to New York Telephone Company that E.E.O. - 1, Standard Form 100 promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission and Plans for Progress, has been or will be filed in accordance with the requirements set forth in Title 41-Public Contracts, Equal Employment Opportunity, Department of Labor, Part 60-1--Obligations of Contractors and Subcontractors, Section 60-1.7 Code of Federal Regulations, effective July 1, 1968, as amended.

II. MINORITY BUSINESS ENTERPRISES (41 CFR 1-1. 1310-2)

In accordance with Executive Order No. 11625, dated October 13, 1971, and U.S. Code of Federal Regulations, Title 41-Public Contracts and Property Management, Chapter 1-Federal Procurement Regulations, Part 1-1.13--Minority Business Enterprises, as such may be amended from time to time, the parties include in this contract the following understanding and agreement:

FOR CONTRACTS EXCEEDING \$5,000--
UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

FOR CONTRACTS EXCEEDING \$5,000--
MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

(a) The Contractor agrees to establish and conduct a program which will enable minority business enterprises (as defined in the clause entitle "Utilization of Minority Business Enterprises"), to be considered fairly as subcontractor and suppliers under this contract. In this connection, the Contractor shall--(1) Designate a liaison officer who will administer the Contractor's minority business enterprises program. (2) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions. (3) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises. (4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises. (5) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer substantial minority business enterprises subcontracting opportunities. (6) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct. (7) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (4), above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

III. LISTING OF EMPLOYMENT OPENINGS FOR VETERANS (41 CFR 50-250.2)

In accordance with Executive Order No. 11701, dated January 24, 1973, and U.S. Code of Federal Regulations Title 41-Public Contracts and Property Management, Chapter 50, Part 50-250-Veteran's Employment Emphasis Under Federal Contracts, as such may be amended from time to time, the parties include in this contract the following understanding and agreement.

FOR CONTRACTS \$2,500 OR MORE--

The contract clauses relating to listing employment openings that may be suitable for qualified disabled veterans and veterans of the Vietnam era, with the local office of the State employment service, contained in 41 CFR 50-250.2 are adopted and incorporated herein by this reference.

FOR CONTRACTS \$10,000 OR MORE--

The provisions of PL 93-508, 38 U.S.C. 42 Sections 2012 and 2014 requiring affirmative action in the hiring and advancement of qualified disabled veterans and veterans of the Vietnam era are adopted and incorporated herein by this reference.

IV. EMPLOYMENT OF THE HANDICAPPED CLAUSE (20 CFR 741.3)

In accordance with Executive Order No. 11758, dated January 17, 1974, and U.S. Code of Federal Regulations, Title 20-Employees' Benefits, Chapter VI-Employment Standards Administrations, Department of Labor, Subchapter C-Rehabilitation Act of 1973 (Public Law 93-112, Section 503), Part 741-Affirmative Action Obligations of Contractors and Subcontractors, as such may be amended from time to time, the parties include in this contract the following understanding and agreement:

FOR CONTRACTS EXCEEDING \$2,500--

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The Contractor agrees that, if a handicapped individual files a complaint with the Contractor that he is not complying with the requirements of the Act, he (1) investigate the complaint and take appropriate action consistent with the requirements of 20 CFR 741.29 and (2) maintain on file for three years, the record regarding the complaint and action taken.

(c) The Contractor agrees that if a handicapped individual files a complaint with the Department of Labor that he has not complied with the requirements of the Act, (1) he will cooperate with the Department in its investigation of the complaint, and (2) he will provide all pertinent information regarding his employment practices with respect to the handicapped.

(d) The Contractor agrees to comply with the rules and regulations of the Secretary of Labor in 20 CFR Ch VI, Part 741.

(e) In the event of the Contractor's non-compliance with the requirements of this clause, the contract may be terminated or suspended in whole or in part.

(f) This clause shall apply to all subcontracts over \$2,500.

FOR CONTRACTS UNDER \$500,000--

Paragraphs (a) through (f) above and the following:

(g) The Contractor agrees (1) to establish an affirmative action program, including appropriate procedures consistent with the guidelines and the rules of Secretary of Labor, which will provide the affirmative action regarding the employment and advancement of the handicapped required by PL 93-112, (2) to publish the program in his employee's or personnel handbook or otherwise distribute a copy to all personnel, (3) to review his program on or before March 31 of each year and to make such change as may be appropriate, and (4) to designate one of his principal officials to be responsible for the establishment and operation of the program.

(h) The Contractor agrees to permit the examination by appropriate contracting agency officials or the Assistant Secretary for Employment Standards or his designee, of pertinent books, documents, papers and records concerning his employment and advancement of the handicapped.

(i) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Assistant Secretary for Employment Standards, provided by the contracting officer stating contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights and remedies available.

(j) The Contractor will notify each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

FOR CONTRACTS OVER \$500,000—

Paragraphs (a) through (j) above and the following:

(k) The Contractor agrees to submit a copy of his affirmative action program to the Assistant Secretary for Employment Standards within 90 days after the award to him of a contract or subcontract.

(l) The Contractor agrees to submit a summary report to the Assistant Secretary for Employment Standards, by March 31 of each year during performance of the Contract and by March 31 of the year following completion of the contract, in the form prescribed by the Assistant Secretary covering employment and complaint experience, accommodations, made and all steps taken to effectuate and carry out the commitments set forth in the affirmative action program.

NOTE: Paragraphs (g) through (l) are only applicable for contracts and subcontracts which provide for performance of the work in 90 days or more and contracts of a continuing nature.

AGREED AND ACCEPTED

BY

(Date) _____